IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Regular Second Appeal No.203 of 2006.

Date of decision:13.06.2007

Sidhu @ Sidh Parkash & Another **….Appellants**

Versus

Krishanu Ram & Others **….Respondents**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud, J.

Whether approved for reporting?[1]

For the Appellants: **Mr.Ashwani K.Sharma, Advocate.**

For the Respondents: **Mr.Rajiv Jiwan, Advocate.**

Dev Darshan Sud, J. (Oral).

This is plaintiffs' second appeal against the judgment of the learned District Judge, Bilaspur, affirming the judgment of the learned Civil Judge (Senior Division), Bilaspur, dismissing the suit of the plaintiff for permanent prohibitory injunction against the defendants restraining them from causing any interference in the suit land comprised in Khasra No.39, Khata Khatauni No.24/24, measuring 0.3 bighas, situated in village Chambi, Pargana Bahadurpur, Tehsil Sadar, District Bilaspur, H.P. A decree for permanent prohibitory injunction seeking to restrain the defendants-respondents from creating any path on the land

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[1] ***Whether reports of Local Papers may be allowed to see the judgment?***

in dispute was also prayed for. Both the courts below, on the basis of the demarcation report of the Tehsildar as also the other evidence on record, found as a fact that no interference has been caused in the rights of the plaintiffs and, therefore, declined relief to the plaintiff.

In exercise the jurisdiction under Section 100 of the Code of Civil Procedure, it is not possible for me to interfere in concurrent findings of fact unless perversity is established on the record. In the circumstances, I do not find this to be a fit case in which I can exercise my powers interfering with the judgment in appeal.

Learned counsel appearing for the plaintiffs-appellants has submitted that the defendants have caused and would be causing interference in the enjoyment of their proprietary rights of the plaintiff. It need not be reiterated that the plaintiffs being the owners of the land, can file a suit against the defendants as and when any obstruction or interference etc. is caused or any right breached. It is clarified that this order shall not be a bar to the plaintiffs filing any such action in future. This appeal is, accordingly, disposed of. There shall be no order as to costs.

June 13, 2007 **(Dev Darshan Sud)**
(aks) **Judge.**